

REMARKS

The Office Action and the cited and applied references have been carefully reviewed. No claim is allowed. Claims 3-6 and 13-20 presently appear in this application and define patentable subject matter warranting their allowance. Reconsideration and allowance are hereby respectfully solicited.

Claims 3-6 remain rejected under 35 U.S.C. §112, first paragraph, for lack of written description as set forth in Paper No. 13. This rejection is respectfully traversed.

Applicants state that the structure of the promoter is clearly defined in the claims where either it has a specified SEQ ID NO or it is hybridizable to any one of the specific nucleotide sequences of SEQ ID NOs: 3-8 under specific stringent conditions. The presently claimed invention is supported by the description in the specification. For instance, the activity of the promoter having a hybridizable nucleotide sequence can be confirmed by using a reported gene such as described and taught in specification at page 44, line 7 to page 50, line 16. In addition, genes that can be used for controlling plant morphology are disclosed in the specification at page 64, line 14 to page 65, line 14.

New dependent claims 13-20 are added and it is clear that this lack of written description rejection does not relate to the subject matter of new claims 13, 14, 17, and 18. The rejection as it might relate to claims 15, 16, 19, and 20 is discussed immediately above with regard to claims 3-6.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

In re Appln. No.: 09/368,572
Confirmation No.: 5695

Claims 3-6 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Okazawa et al. in view of Kasukabe et al. This rejection is obviated by the amendment to the claims to delete SEQ ID NOS: 1 and 2 from the recitation of sequences to which a nucleotide sequence is hybridizable.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

In view of the above, the claims define patentable subject matter warranting their allowance. Favorable consideration and early allowance are earnestly urged.

Respectfully submitted,
BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By: 

Allen C. Yun
Registration No. 37,971

624 Ninth Street, N.W.
Washington, D.C. 20001
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
ACY:pp

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